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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

11 Cr. 205 (AKH)

5 CLIVER ANTONIO ALCALA  
6 CORDONES,

Conference

7 Defendant.

8 -----x

9 New York, N.Y.  
10 November 30, 2022  
10:20 a.m.

11 Before:

12 HON. ALVIN K. HELLERSTEIN,

13 District Judge

14 APPEARANCES

15 DAMIAN WILLIAMS

16 United States Attorney for the  
Southern District of New York

17 KYLE A. WIRSHBA

KAYLAN LASKY

18 Assistant United States Attorneys

19 The LAW FIRM OF CESAR DE CASTRO, P.C.  
Attorneys for Defendant

20 BY: CESAR DE CASTRO

-and-

21 GOTLIB LAW, PLLC

22 BY: VALERIE A. GOTLIB

-and-

LEWIS BAACH KAUFMANN MIDDLEMISS

23 BY: ADAM SWOPE KAUFMANN

CRISTIAN FRANCOS

24 Also Present:

25 Gabriel Mitre, Interpreter (Spanish)

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1 (Case called)

2 THE DEPUTY CLERK: Counsel, please state your  
3 appearances for the record.

4 THE COURT: Sit and take off your mask when you speak.

5 MR. WIRSHBA: Yes, your Honor. Good morning, Kyle  
6 Wirshba, and I'm joined at counsel table by my colleague Kaylan  
7 Lasky.

8 THE COURT: Good morning.

9 MR. DE CASTRO: Good morning, your Honor. Cesar De  
10 Castro, Valerie Gotlib, Adam Kaufmann, and Cristian Francos for  
11 Mr. Alcala Cordones who is seated next to Ms. Gotlib.

12 THE COURT: Good morning, all.

13 MR. DE CASTRO: Judge, we need a Spanish-language  
14 interpreter.

15 THE COURT: Sorry?

16 MR. DE CASTRO: We need a Spanish-language interpreter  
17 for Mr. Alcala Cordones.

18 (Recess)

19 THE COURT: OK.

20 THE DEPUTY CLERK: This is U.S. v. Cliver Antonio  
21 Alcala Cordones. Counsel, please state your appearance for the  
22 record.

23 MR. WIRSHBA: Good morning, your Honor. Kyle Wirshba  
24 for the government. I'm joined at counsel table by Kaylan  
25 Lasky.

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1 THE COURT: I think we've done this already.

2 MR. WIRSHBA: We did this part, yes, your Honor.

3 THE COURT: We're just joined by Mr. Cordones.

4 Good morning, Mr. Cordones.

5 THE DEFENDANT: Good day.

6 THE COURT: Mr. Wirshba, what are we going to do  
7 today?

8 MR. WIRSHBA: Your Honor, I think today we should  
9 contemplate the scheduling of a trial date in this matter. The  
10 parties have been discussing it. There remains to be some work  
11 done with respect to the classified processes that are ongoing,  
12 but it's the parties' belief that we can set perhaps a  
13 tentative trial date sooner and a backup trial date later, if  
14 that's the Court's preference, and allow the Court to know  
15 whether or not we feel like we can actually keep that earlier  
16 tentative trial date in approximately 30 days.

17 THE COURT: I don't have that luxury, Mr. Wirshba.  
18 I've got other cases, other criminal cases. I can't tie up my  
19 calendar in this way.

20 Tell me first, where do we stand on the production? I  
21 looked back at my notes, and every time we have a conference,  
22 you say you're almost finished, you're almost finished, you're  
23 almost finished, and today you're saying you're almost finished  
24 again.

25 MR. WIRSHBA: Well, your Honor, the issue here is

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1 twofold: One, there is some additional discovery that we  
2 continue to collect that we've been in touch with defense about  
3 that is largely from another case that is ongoing and  
4 continues. So that discovery, as it comes to us, we are  
5 getting to the defense, but --

6 THE COURT: It's going to be a never-ending process.

7 MR. WIRSHBA: Well, your Honor, I don't think that's  
8 going to hold us up in terms of getting this trial. The other  
9 piece of this, as your Honor knows --

10 THE COURT: The defendant wants to make motions.

11 MR. WIRSHBA: I would defer to the defense on that. I  
12 don't understand there to be any motions with respect to these  
13 materials, but I, of course, would defer to the defense.

14 THE COURT: Mr. De Castro.

15 MR. DE CASTRO: With respect to the -- sorry, Judge --  
16 with respect to the materials that they're talking about from  
17 another investigation, I don't anticipate that there would be  
18 motions that we would need to set a motion schedule or anything  
19 like that.

20 THE COURT: Do you have motions that you want to make?

21 MR. DE CASTRO: No. Other than the motions we have  
22 made already, we are not anticipating --

23 THE COURT: So I can say further motions are waived?

24 MR. DE CASTRO: We made motions already. So we're --  
25 except the only motions we would contemplate making are under

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1 CIPA. But we believe that the materials that we need to  
2 review, we will be finished with those by the end of the month.  
3 So we will know by the end of the month if there's any motions  
4 we'd like to make with respect to those materials, which my  
5 understanding is they're very limited, and then we're ready.

6 THE COURT: So I should schedule a status conference  
7 in a month and then pick a trial date at that time?

8 MR. WIRSHBA: Your Honor, that makes sense to the  
9 government.

10 MR. DE CASTRO: Judge, our only concern is that --  
11 just that if we schedule a trial date today, we at least have  
12 it locked in so that somebody doesn't come in, another judge  
13 come in, and take that potential date, because I know that you  
14 have limited control of your calendar is my understanding given  
15 the protocols that are still in place.

16 We had talked about setting -- I have a January trial  
17 that's going to last until March and then setting a trial in  
18 July, if that was available for the Court, so that we have our  
19 time to prep and try the case.

20 THE COURT: How long will the trial take?

21 MR. WIRSHBA: Approximately two to three weeks, your  
22 Honor.

23 THE COURT: You agree, Mr. De Castro?

24 MR. DE CASTRO: I have no reason to disagree, Judge.  
25 I haven't seen anything to disagree on.

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1 THE COURT: All right.

2 MR. DE CASTRO: I trust the government on that.

3 THE COURT: July 10 for trial. Firm date. OK with  
4 that?

5 MR. WIRSHBA: Yes, your Honor.

6 MR. DE CASTRO: Yes, Judge. Thank you.

7 THE COURT: No adjournments. Make sure that all the  
8 new stuff is searched for *Brady* stuff.

9 MR. WIRSHBA: Yes, your Honor, of course. As your  
10 Honor knows, there is still potentially some CIPA litigation  
11 that may come to the Court, but we will do that expeditiously.

12 THE COURT: Make sure we start on July 10. Defendant  
13 is in jail. Doesn't deserve to be in jail except for the  
14 statutory requirements of bail, so we must move this case.

15 MR. WIRSHBA: Understood, your Honor.

16 THE COURT: OK. Brigitte, final trial conference.

17 THE DEPUTY CLERK: July 6 at 11:00.

18 THE COURT: Final pretrial conference July 6 at  
19 11 o'clock. All motions *in limine* will be heard at that time.  
20 Set them up so I get papers four business days before. Check  
21 my rules about what else is required.

22 Motion?

23 MR. WIRSHBA: Yes, your Honor. The government would  
24 seek to exclude time until the trial date of July 10 under the  
25 Speedy Trial Act to allow the parties to prepare for trial, to

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1 allow the defense to continue to prepare their case.

2 THE COURT: Without objection?

3 MR. DE CASTRO: Without objection.

4 THE COURT: So ordered.

5 Thank you. We're finished.

6 MR. WIRSHBA: Thank you, your Honor.

7 (Adjourned)